

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FRANK FAHY,
Plaintiff,
v.
ORPHEOS TARBOX, et al.,
Defendants

No. C-09-1420 MMC

**ORDER DIRECTING DEFENDANT
STEINER TO FILE PROOF OF SERVICE
OF MOTION TO DISMISS OR FOR
SUMMARY JUDGMENT**

The Court is in receipt of defendant Alec Steiner's ("Steiner") "Motion To Dismiss For Failure To State A Claim On Which Relief Can Be Granted [Fed. R. Civ. P. 12(b)(6)] Or, In The Alternative, For Summary Judgment [Fed. R. Civ. P. 56]," filed August 6, 2009, and noticed for hearing on September 11, 2009.

Under the Local Rules of this District, a motion must be "served and noticed in writing on the motion calendar of the assigned Judge for hearing not less than 35 days after service of the motion." See Civil L.R. 7-2(a). Further, where, as here, a motion must be served on the other parties to the action, the motion "must bear or have attached to it: (1) an acknowledgment of service by the person served; or (2) [a] Certificate of service stating the date, place and manner of service and the names, street address or electronic address of the persons served, certified by the person who made service, pursuant to 28


1 U.S.C. § 1746.”¹ See Civil L.R. 5-6(a).

2 Steiner has failed to file an acknowledgment or a certificate of service stating he
3 served the above-referenced motion on plaintiff Frank Fahy (“Fahy”) and on counsel for the
4 other defendants.

5 Accordingly, Steiner is hereby DIRECTED to file, no later than August 21, 2009, an
6 acknowledgment or a certificate of service establishing he has served the motion on Fahy
7 and on counsel for the other defendants. If Steiner fails to file, as to each party to the
8 action, an acknowledgment or a certificate of such service on or before August 21, 2009,
9 the Court hereby gives notice it will deny Steiner’s motion, without prejudice, for failure to
10 comply with the Local Rules of this District.

11 **IT IS SO ORDERED.**

12
13 Dated: August 14, 2009

14 
15 MAXINE M. CHESNEY
16 United States District Judge
17
18
19
20
21
22
23
24
25

26 ¹Section 1746 provides that a certificate should contain the following language: “I
27 declare (or certify, verify, or state) under penalty of perjury under the laws of the United
28 States of America that the foregoing is true and correct. Executed on (date). (Signature.)”
See 28 U.S.C. § 1746.